

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
Plaintiff,) 8:05CR406
vs.) ORDER
GILBERT A. HERNANDEZ and)
LUISANA MIRANDA,)
Defendants.)

This matter is before the court on the motion for an extension of time by defendants Gilbert A. Hernandez (Hernandez) and Luisana Miranda (Miranda) for an extension of time in which to file pretrial motions (Filing Nos. 18 and 20). The defendants seek an additional forty-five days in which to file pretrial motions in accordance with the progression order (Filing No. 16). Miranda has filed an affidavit wherein she consents to the motion and acknowledges she understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 21). Hernandez's counsel represents that Hernandez consents to the motions and will be filing an affidavit. Moving counsel represent that government's counsel has no objection to the motions. Upon consideration, the motions will be granted.

IT IS ORDERED:

1. Defendants Hernandez's and Miranda's motions for an extension of time (Filing Nos. 18 and 20) are granted. The defendants are given until **on or before February 9, 2006**, in which to file pretrial motions pursuant to the progression order. The ends of justice have been served by granting such motions and outweigh the interests of the public and the defendants in a speedy trial. The additional **time** arising as a result of the granting of the motions, i.e., the time between **December 21, 2005 and February 9, 2006**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason defendants' counsel require additional time to adequately prepare the case, taking

into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

2. The evidentiary hearing tentatively scheduled for 9:00 a.m. on January 3, 2006, is **canceled** and will be rescheduled, if necessary, following the filing of any pretrial motions in accordance with this order.

3. Trial of this matter scheduled for January 23, 2006, is cancelled and will be rescheduled following the disposition of any pretrial motions filed in accordance with this order or following the expiration of the pretrial motion deadline, whichever later occurs.

DATED this 21st day of December, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge